

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
LOS ANGELES SESSION
JUNE 6, 7, AND 8, 2006**

(FIRST AMENDED)

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, Third Floor, North Tower, Los Angeles, California on June 6, 7, and 8, 2006.

TUESDAY, JUNE 6, 2006—2:00 P.M.

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| (1) | S136070 | Bernard v. Foley |
| (2) | S120546 | Claremont Police Officers Assoc. v. City of Claremont et al. |
| (3) | S012944 | People v. Ramirez (Richard) [Automatic Appeal] |

WEDNESDAY, JUNE 7, 2006—9:00 A.M.

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| (4) | S132619 | Regency Outdoor Advertising v. City of Los Angeles |
| (5) | S128603 | The Copley Press, Inc. v. Superior Court of San Diego County
(County of San Diego et al., Real Parties in Interest) |
| (6) | S120238 | People v. Modiri (Shea Michael) |

1:30 P.M.

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| (7) | S127535 | Bighorn-Desert View Water Agency v. Beringson |
| (8) | S124205 | In re Derrick B. |
| (9) | S042223 | People v. Cook (Walter Joseph) [Automatic Appeal] |

THURSDAY, JUNE 8, 2006—9:00 A.M.

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| (10) | S134920 | Auerbach v. Assessment Appeals Bd. |
| (11) | S131807 | State of California v. Pricewaterhousecoopers, LLP (<i>Werdegar, J., not participating; Irion, J., assigned justice pro tempore</i>) |
| (12) | S123951 | Wells v. One2One Learning (<i>Werdegar, J., not participating; Irion, J., assigned justice pro tempore</i>) |
| (13) | S125314 | People v. Moore (Adrian Eugene) |

GEORGE

Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with rule 18(c) of the California Rules of Court.

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
LOS ANGELES SESSION
JUNE 6, 7, AND 8, 2006**

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, JUNE 6, 2006—2:00 P.M.

(1) Bernard v. Foley, S136070

#05-191 Bernard v. Foley, S136070. (B168665; 130 Cal.App.4th 1109; Superior Court of Los Angeles County; BP072862.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Under Probate Code sections 21350 and 21351 and Welfare and Institutions Code section 15610.17, is *any* person who provides care or services to a dependent adult a “care custodian” of the dependent adult who is required to show the absence of fraud or undue influence (or other exempting circumstances) in order to be the beneficiary of a donative transfer by the dependent adult under a testamentary will or trust, or is the term “care custodian” as used in these statutes inapplicable to a person who provides such care or services because of a preexisting close personal relationship with the dependent adult?

(2) Claremont Police Officers Assoc. v. City of Claremont et al., S120546

#04-01 Claremont Police Officers Assoc. v. City of Claremont et al., S120546. (B163219; 112 Cal.App.4th 639; Superior Court of Los Angeles County; KS007219.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issues: (1) Under what circumstances, if any, does a public agency’s duty under the Meyers-Milias-Brown Act (Gov. Code, § 3500 et seq.) to meet and confer with a recognized employee organization before making changes to working conditions apply to actions *implementing* a fundamental management or policy decision where the *adoption* of that decision

was exempt under Government Code section 3504? (2) In particular, did the city have a duty to meet and confer before implementing the Vehicle Stop Data Policy at issue in this case?

(3) *People v. Ramirez (Richard)*, S012944 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

WEDNESDAY, JUNE 7, 2006—9:00 A.M.

(4) *Regency Outdoor Advertising v. City of Los Angeles*, S132619

#05-105 Regency Outdoor Advertising v. City of Los Angeles, S132619. (B159255; 126 Cal.App.4th 1281; Superior Court of Los Angeles County; YC037625.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issues: (1) Can a plaintiff maintain an action for inverse condemnation for the loss of a “view right” where trees planted by the city on the city’s own property obscured the visibility of plaintiff’s billboard? (2) Can an award of expert witness fees under Code of Civil Procedure section 998(c)(1) include fees incurred before the offer to compromise was made, or is it limited to fees incurred after the date of the offer?

(5) *The Copley Press, Inc. v. Superior Court of San Diego County (County of San Diego et al., Real Parties in Interest)*, S128603

#04-134 The Copley Press, Inc. v. Superior Court of San Diego County (County of San Diego et al., Real Parties in Interest), (D042251; 122 Cal.App.4th 489; Superior Court of San Diego County; GIC807922.) Petition for review after the Court of Appeal granted in part and denied in part a petition for peremptory writ of mandate. This case includes the following issue: When a request for information regarding a peace officer disciplinary proceeding is made under the California Public Records Act (Gov. Code., § 6250 et seq.), what information is protected from disclosure under Penal Code section 832.7 as a “personnel record”?

(6) *People v. Modiri (Shea Michael)*, S120238

#03-159 People v. Modiri (Shea Michael), S120238. (H023584; 112 Cal.App.4th 123; Superior Court of Santa Clara County; CC079647.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case includes the following issue: Is the so-called “group beating exception” (see *People v. Corona* (1989) 213

Cal.App.3d 589), as embodied in CALJIC No. 17.20, to the requirement of a finding of *personal* infliction of great bodily injury for purposes of imposing an enhancement under Penal Code section 12022.7, inconsistent with *People v. Cole* (1982) 31 Cal.3d 568?

1:30 P.M.

(7) *Bighorn-Desert View Water Agency v. Beringson*, S127535

#04-122 Bighorn-Desert View Water Agency v. Beringson, S127535. (E033515; 120 Cal.App.4th 890; Superior Court of San Bernardino County; SCV 097005.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does the state Constitution permit water rates to be reduced by voter initiative? (See Cal. Const., arts. XIII C, § 3, XIII D, § 6(c).)

(8) *In re Derrick B.*, S124205

#04-64 In re Derrick B., S124205. (F043067; 116 Cal.App.4th 1352; Superior Court of Fresno County; 0094031-1.) Petition for review after the Court of Appeal modified and affirmed orders in a wardship proceeding. This case includes the following issue: Does Penal Code section 290(a)(2)(E) authorize the juvenile court to order a ward to register as a sex offender for committing an offense not listed in section 290(d)(1), or does subdivision (d) of section 290 set forth the exclusive grounds upon which a juvenile court ward can be ordered to register as a sex offender under section 290?

(9) *People v. Cook (Walter Joseph)*, S042223 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

THURSDAY, JUNE 8, 2006—9:00 A.M.

(10) *Auerbach v. Assessment Appeals Bd.*, S134920

#05-178 Auerbach v. Assessment Appeals Bd., S134920. (B173649; 129 Cal.App.4th 240; Superior Court of Los Angeles County; BS084737.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issue: Where land is leased for less than 35 years and the lease provides that, for

the term of the lease, the lessee is the owner of improvements it constructed on the land, does a transfer of ownership of the land effect a change of ownership of the land only, or of both the land and improvements, for the purpose of determining what property is subject to reassessment in calculating the new property tax?

(11) State of California v. Pricewaterhousecoopers LLP, (Werdegar, J., not participating; Irion, J., assigned justice pro tempore), S131807

#05-106 State of California v. Pricewaterhousecoopers LLP, S131807. (A095918, A097793; 125 Cal.App.4th 1219; Superior Court of San Francisco County; 993507.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court limited review to the following issue: Is a public entity a “person” within the meaning of the False Claims Act (Gov. Code, § 12560 et seq.) and thus entitled to bring a *qui tam* cause of action on behalf of the state or another public entity against a defendant for allegedly obtaining payments to which the defendant was not entitled?

(12) Wells v. One2One Learning (Werdegar, J., not participating; Irion, J., assigned justice pro tempore), S123951

#04-71 Wells v. One2One Learning, S123951. (C042504; 116 Cal.App.4th 515; Superior Court of Sierra County; S46-CV-5844.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Is a public entity, such as a charter school, a “person” within the meaning of the False Claims Act (Gov. Code, § 12560 et seq.) and thus subject to a *qui tam* cause of action for allegedly obtaining payments from the state to which it was not entitled?

(13) People v. Moore (Adrian Eugene), S125314

#04-74 People v. Moore (Adrian Eugene), S125314. (E032142; unpublished opinion; Superior Court of San Bernardino County; FSB022611.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: When the trial court hearing on a defendant’s motion to suppress evidence preceded this court’s decision in *People v. Sanders* (2003) 31 Cal.4th 418, and the record does not reveal whether or not the police were aware of defendant’s parole condition at the time of the search, should an appellate court simply reverse defendant’s conviction or should it remand the matter to the trial court for a new suppression hearing?